

REMARKS

Applicant thanks the Examiner for the courtesies extended to Applicant's representative during the telephone interview on October 25, 2007. During that conversation, the *Iuoras* reference was discussed.

Applicant thanks the Examiner for the remarks and analysis contained in the Office Action. Claim 4 is amended. Claims 7 and 9 have been cancelled. New claims 10-21 are presented. Applicant respectfully requests reconsideration of this application.

The rejection of claim 7 under 35 USC §112 is rendered moot by the cancellation of claim 7.

Applicant respectfully submits that none of the claims are anticipated by the *Iuoras* reference applied against claims 1 and 8 under 35 U.S.C. §102(b). The *Iuoras* reference does not include using a data backlog of a gateway access terminal as suggested by the Examiner in the office action. Applicant disagrees with the Examiner's conclusion that line 17 of column 8 of the *Iuoras* reference teaches "obtaining a data backlog size of said at least one gateway access terminal (indicated in the summary of the invention, line 17 of column 8, for monitoring downlink buffer occupancy which is considered as gateway access terminal backlog size)." The *Iuoras* reference only uses the input and output ports of the onboard controller 30 of the satellite node 10 for congestion control and related functions described in the *Iuoras* reference. This becomes clear by considering the following excerpts of the *Iuoras* reference, for example:

According to one aspect of the present invention, a method is proposed to efficiently support ABR services ... providing minimum capacity guarantee and flow control for ABR sources, in order to prevent excessive cell loss or delay for ABR traffic, **resulting from congestion of on-board satellite resources**. (Col. 8, lines 5-11) (Emphasis added.)

The on-board processor 30 includes the ... on-board switch 31 is made of the input ports 35, the output ports 36 (where the queuing is performed, in the buffers

37) ... input port and output port will alternatively be used for uplink channel and downlink channel, respectively. (Col.14, lines 46-51 and col. 15, lines 3-5)

Congestion control only needs to be enforced in the downlink channels, in order to maintain a reasonable cell loss ratio in the conditions of a rather limited switch buffer size, due to cost, mass and power constraints associated with the *on-board* implementation. (Col. 15, lines 17-21) (Emphasis added.)

The port algorithm is mainly composed of various congestion control-related measurements performed by *the input and/or output ports*. (Col. 17, lines 5-7) (Emphasis added.)

The OBNC calculates the fair rates and the required amount of rate adaptation *in each input port* (rate decrease or no change) *and each output port* (rate increase, decrease or no change). (Col. 19, lines 23-26) (Emphasis added.)

As in the case of the input ports, the OBNC algorithm for the output ports determines whether the allowable cell rates of user terminals need to be adapted in response to the current load and *downlink queue size of the output ports*. (Col. 26, lines 16-19) (Emphasis added.)

From the above quoted text, it is clear that the *Iuoras* reference utilizes the ports on board the satellite node 10 for congestion control and does not use any data backlog size of any of the user terminal 11 or the gateway terminals 12. The Examiner's interpretation of "downlink buffer occupancy" in the *Iuoras* reference as a data backlog of one of the terminals 11 or 12 is contrary to the express teachings of the *Iuoras* reference, which indicate that the "downlink buffer" used for the congestion control is that of the output ports on board the satellite node 10. Therefore, the interpretation of the reference does not satisfy the "reasonable" interpretation standard required by the MPEP and there is no *prima facie* case of anticipation. The rejection of claims 1 and 8 must be withdrawn.

The rejections under 35 U.S.C. §103 must also be withdrawn because they depend on the same interpretation of the *Iuoras* reference. Therefore, even if the proposed combinations were

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possible, the result of such combinations would not be what the Examiner contends. Without that, there is no *prima facie* case of obviousness against any of Applicant's claims.

Additionally, the *Iuoras* reference cannot be modified to be consistent with Applicant's claims. If one were to substitute a gateway terminal backlog size consideration for the downlink buffer occupancy of *Iuoras*, that would change *Iuoras*' principle of operation and interfere with its ability to perform its intended function. Such a modification is not possible according to MPEP 2143.01(V) and (VI), for example. None of Applicant's claims can be rejected over the *Iuoras* reference.

Applicant believes that this case is in condition for allowance.

Applicant hereby petitions to extend the time for filing a response to the Office Action mailed July 11, 2007 for one month, the period to end on November 11, 2007. The Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds in the amount of \$120.00. The Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds for any additional fees or credit the account for any overpayment.

Respectfully submitted,

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CERTIFICATE OF FACSIMILE

I hereby certify that this Response, relative to Application Serial No. 10/701,276, is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on November 12, 2007.


Theresa M. Palmateer

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